

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Coldwell Banker Real Estate, LLC

v.

Case No. 08-cv-50-PB

Brian Moses Realty, Inc., et al.

NOTICE OF RULING

**Re: Document No. 35, Motion to Dismiss**

**Ruling:** The counterclaims are weak and are unlikely to survive a motion for summary judgment challenging their validity. Nonetheless, given the liberal standard of review that I must use at this stage of the proceedings, I cannot deny defendants the opportunity to develop their claims through discovery. The motion is denied without prejudice to the plaintiffs' right to renew its arguments in a properly supported motion for summary judgment.

/s/ Paul Barbadoro  
Paul Barbadoro  
District Judge

December 1, 2008

cc: Stanley Norkunas, Esq.  
Aixa Maldonado-Quinones, Esq.